



# Tithe Act 1936

1936 CHAPTER 43 26 Geo 5 and 1 Edw 8

## PART III

### MISCELLANEOUS AND GENERAL

#### *Miscellaneous*

**F1**29 .....

#### **Textual Amendments**

**F1** Ss. 3, 4(2)(b), 10, 11, 12(1), 13(3)(4)(7)–(9)(11), 15, 16(1)–(3)(7), 17, 29, 34 repealed by [Finance Act 1977](#) (c. 36, SIF 98:5), s. 59(5), [Sch. 9 Pt. V](#)

**F2**30 .....

#### **Textual Amendments**

**F2** S. 30 repealed (19.11.1998) by [1998 c. 43](#), s. 1(1), [Sch. 1 Pt. II](#) Group 2.

### **31 Liabilities to repair chancels, &c.**

- (1) The provisions of this section shall have effect with respect to liabilities to repair chancels of churches or other ecclesiastical buildings arising from the ownership of—
- (a) tithe rentcharge extinguished by this Act in respect of which stock is to be issued under this Act;
  - (b) tithe rentcharge extinguished by this Act to which the provisions of section twenty-one of this Act apply; or

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- (c) land in which merger or extinguishment of tithe rentcharge has taken effect and to which the provisions of section one of the Tithe <sup>M1</sup>Act, 1839, apply.
- (2) In respect of liability to repair arising from the ownership of a tithe rentcharge extinguished by this Act in respect of which stock is to be issued under this Act, the Diocesan Authority shall be entitled to receive a part of the stock to be issued in respect of the rentcharge equal in amount to such a sum (in this section and in the Seventh Schedule to this Act referred to as “the sum required for repairs”) as may be reasonably sufficient, having regard to the condition of the chancel or building at the appointed day, to provide for the cost of future repairs thereof and to provide a capital sum the income of which will be sufficient to insure it for a sum adequate to reinstate it in the event of it being destroyed by fire:  
Provided that, where the rentcharge was vested immediately before the appointed day for an interest in fee simple in possession in any of the following corporations or bodies, namely, Queen Anne’s Bounty, the Ecclesiastical Commissioners, a spiritual rector of a rectory with cure of souls, an ecclesiastical corporation, or a university or college to which the <sup>M2</sup>Universities and College Estates Act, 1925, applies, the foregoing provisions of this subsection shall not have effect, but the corporation or body shall be subject to liability to repair in like manner as if the rentcharge had continued in existence and in the ownership of the corporation or body.
- (3) In respect of liability to repair arising from the ownership of a tithe rentcharge extinguished by this Act to which the provisions of section twenty-one of this Act apply, the land out of which the rentcharge issued immediately before the appointed day and the owner thereof for the time being shall be subject to liability to repair in like manner as if the land had been land to which the provisions of section one of the Tithe Act, 1839, apply.
- (4) In respect of liability to repair arising from the ownership of land in which merger or extinguishment of a tithe rentcharge has taken effect and to which the provisions of section one of the Tithe <sup>M3</sup>Act, 1839, apply, the land and the owner thereof for the time being shall be subject to liability to repair in like manner as if this Act had not passed.
- (5) The foregoing provisions of this section shall have effect subject to the provisions of Part I of the Seventh Schedule to this Act, which relate to the apportionment of liability to repair in certain cases.
- <sup>F3</sup>(6) .....
- <sup>F4</sup>(7) .....
- (8) This section and the Seventh Schedule to this Act shall have effect in relation to a chancel or building in Wales or Monmouthshire subject to the modifications specified in Part III of that Schedule.
- (9) In this section and in the Seventh Schedule to this Act the expression “Diocesan Authority” has the meaning assigned to it by the <sup>M4</sup>Ecclesiastical Dilapidations Measure, 1923, and that Measure, as amended by the <sup>M5</sup>Ecclesiastical Dilapidations (Amendment) Measure, 1929, is referred to as “the Measure.”

<p><b>Textual Amendments</b></p> <p><b>F3</b> Ss. 2(2)(3), 6(1)(2), 8, 22, 23, 31(6), Sch. 3 Pt. I, Sch. 8 paras. 2–4, 6, 7 repealed by Statute Law Revision Act 1953 (2 &amp; 3 Eliz. 2 c. 5)</p>
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**F4** Ss. 2(1), 7, 31(7), Sch. 7 Pt. I para. 3(a), Pt. II, Pt. III para. 2 repealed by Finance Act 1989 (c. 26, SIF 63:2, 98:5, 99:3), s. 187(2), **Sch. 17**, Pt. XIV

**Modifications etc. (not altering text)**

**C1** Functions of Queen Anne's Bounty and Ecclesiastical Commissioners now exercisable by Church Commissioners: **Church Commissioners Measure 1947 (No. 2)**, **ss. 1(2)**, 2, 18(2).

**Marginal Citations**

- M1** 1839 c. 62.
- M2** 1925 c. 24.
- M3** 1839 c. 62.
- M4** 1923 No. 3.
- M5** 1929 No. 3.

**32 Furnishing of information by rating authorities.**

- (1) The rating authority by whom a rate has been made shall, on being requested by the Commission so to do, supply to the Commission any information which is in their possession as to the amount paid or payable on account of the rate so far as assessed on any tithe rentcharge issuing out of land in the area to which the rate applied.
- (2) A rating authority shall, on being requested by the Commission so to do, inform the Commission as respects any land in their area whether it was on the first day of April, nineteen hundred and thirty-six, land in respect of which rates were assessable.

**Modifications etc. (not altering text)**

**C2** S. 32(1) repealed (prosp.) by **Corn Rents Act 1963 (c. 14)**, s. 3(4), **Sch.**

**33 Limitation of personal liability of trustees &c. as owners of land.**

In proceedings taken against any person for the enforcement of a personal liability to pay any sum imposed by this Act on that person as being the owner of land, if he proves that the ownership of the land was vested in him in the capacity of a trustee or personal representative, and that his rights of indemnity are, otherwise than by reason of negligence or default on his part, insufficient to provide for his reimbursement in respect of that liability, the court may give such directions for the limitation or release of that liability as the court thinks just and equitable.

**F<sup>5</sup>34** .....

**Textual Amendments**

**F5** Ss. 3, 4(2)(b), 10, 11, 12(1), 13(3)(4)(7)–(9)(11), 15, 16(1)–(3)(7), 17, 29, 34 repealed by **Finance Act 1977 (c. 36, SIF 98:5)**, s. 59(5), **Sch. 9 Pt. V**

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### 35 Application to Crown lands, &c.

This Act shall apply to tithe rentcharge, to corn rents, rentcharges and money payments which are liable to redemption under the Tithe Acts, and to land, belonging to any Government department, or belonging to any public officer or body on behalf of His Majesty for government purposes, or belonging to His Majesty in right of the Crown, or of the Duchy of Lancaster, or belonging to the Duchy of Cornwall, and in relation to such rentcharge, rent, payment or land this Act binds the Crown and, for the purposes of this Act, the officer or body having the management of any such rentcharge, rent, payment or land shall represent His Majesty.

### 36 Ultimate custody of tithe apportionments, collecting lists, &c.

- (1) As soon as it appears to the Commission . . . <sup>F6</sup> that a document placed at their disposal under section six of this Act is no longer required by the Commission . . . <sup>F6</sup> for the purpose of the discharge of their functions under this Act, they shall cause it to be delivered into the custody of the person who but for the provisions of that section would have been entitled to the custody thereof.
- (2) Subject to the provisions of section six of this Act, sealed copies made pursuant to the Tithe Acts of instruments of apportionment shall be under the charge and superintendence of the Master of the Rolls, who may direct that any such copy shall be transferred to the Public Record Office, or to any public library or museum or historical or antiquarian society which may be willing to receive it, and if any such copy is transferred to any public library or museum or historical or antiquarian society, the governing body thereof shall thereafter have the custody thereof and shall be responsible for the proper preservation thereof.

The Master of the Rolls may make rules for giving effect to this subsection.

#### Textual Amendments

**F6** Words repealed by the [Tithe Act 1951 \(c. 62\)](#), [Sch. 2](#)

#### Modifications etc. (not altering text)

**C3** [S. 36\(1\)](#) restricted by [Tithe Act 1951 \(c. 62\)](#), [s. 10\(5\)](#)

**C4** [S. 36\(2\)](#) amended by [Local Government \(Records\) Act 1962 \(c. 56\)](#), [s. 7\(1\)](#)

### 37 Adaptation of references to tithe rentcharge.

- (1) Any enactment or instrument whereby the extent of any right or obligation is to be determined by reference to the amount for the time being payable in respect of tithe rentcharge shall, unless the context otherwise requires, have effect in relation to any period after the appointed day as if the amount so payable had been ninety-one pounds eleven shillings and two pence for every hundred pounds of tithe rentcharge, and proportionately greater or lesser amounts for tithe rentcharge of more or less than one hundred pounds.
- (2) In the case of a testamentary instrument executed before the commencement of this Act, a disposition referring to tithe rentcharge shall be construed and have effect in relation to a rentcharge extinguished by this Act as if the reference had included a reference to the stock issued in respect thereof.

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### 38 Power of Queen Anne’s Bounty to make consequential adjustments.

For the purpose of making adjustments consequential upon the extinguishment of tithe rentcharge, Queen Anne’s Bounty shall give effect to the provisions of Part II of the Third Schedule, and shall have the powers specified in the Eighth Schedule, to this Act.

#### Modifications etc. (not altering text)

- C5 Functions of Queen Anne’s Bounty now exercisable by Church Commissioners: [Church Commissioners Measure 1947 \(No. 2\), ss. 2, 18\(2\)](#)

#### General

### 39 Powers for determination of questions in performance of functions under this Act.

- (1) The provisions of [<sup>F7</sup>Part I of the Arbitration Act 1996], with respect to—
- (a) the administration of oaths and the taking of affirmations;
  - (b) the correction of mistakes and errors in awards;
  - (c) the summoning, attendance and examination of witnesses and the production of documents;
  - (d) the cost of proceedings; and
  - [<sup>F8</sup>(e) the making of an application to the court to determine a preliminary point of law and the bringing of an appeal to the court on a point of law;]
- shall apply in respect of proceedings before the Commission . . . <sup>F9</sup> for the purposes of this Act, . . . <sup>F9</sup> and at any inquiry held by the Commission . . . <sup>F9</sup> for the purposes of this Act, but save as aforesaid [<sup>F10</sup>Part I of the Arbitration Act 1996] shall not apply to or at any such proceedings, . . . <sup>F9</sup> or inquiry.
- (2) Before making a determination in relation to any matter which they are authorised by this Act to determine, the Commission . . . <sup>F9</sup> shall give to any person who satisfies them that he is interested in the land or in the compensation to be made in respect of the tithe rentcharge, as the case may be, to which the determination relates an opportunity of making representations, and any person who satisfies the Commission, . . . <sup>F9</sup> or the court, as the case may be, that he is so interested may apply for the statement in the form of a special case of any question of law arising in relation to the matter.
- (3) Subject as aforesaid, a determination of the Commission . . . <sup>F9</sup> in relation to any matter which they are authorised by this Act to determine shall be binding and conclusive for all purposes.
- (4) . . . . . <sup>F11</sup>

#### Textual Amendments

- F7 Words in s. 39(1) substituted (31.1.1997) by 1996 c. 23, s. 107(1), [Sch. 3 para. 3\(a\)](#) (with s. 81(2)); S.I. 1996/3146, [art.3](#) (with art. 4, Sch. 2 paras. 1-3)
- F8 S. 39(1)(e) substituted (31.1.1997) by 1996 c. 23, s. 107(1), [Sch. 3 para. 3\(b\)](#) (with s. 81(2)); S.I. 1996/3146, [art.3](#) (with art. 4, Sch. 2 paras. 1-3)
- F9 Words repealed by the [Tithe Act 1951 \(c. 62\)](#), [Sch. 2](#)

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- F10** Words in s. 39(1) substituted (31.1.1997) by 1996 c. 23, s. 107(1), **Sch. 3 para. 3(c)** (with s. 81(2)); S.I. 1996/3146, **art.3** (with art. 4, Sch. 2 paras. 1-3)
- F11** Ss. 12(2)–(6), 18–20, 39(4), 42(2), 43, 45 repealed by Tithe Act 1951 (c. 62), **Sch. 2**

**40 Exercise by the Commission of certain powers conferred by the Tithe Acts.**

- (1) The powers conferred by . . . <sup>F12</sup> section thirty-four of the <sup>M6</sup>Tithe Act, 1860 (which relates to the determination of the parish in respect of which a tithe rentcharge ought to have been charged where land has been made chargeable in more than one parish), shall be exercisable by the Commission either before or after the appointed day, and in relation to a tithe rentcharge or to land in respect of which any of the said powers is exercised by the Commission after the appointed day this Act shall have effect as if the . . . <sup>F12</sup> determination, . . . <sup>F12</sup> had been made immediately before the appointed day.
- (2) The powers conferred by section twenty-six of the Tithe Act, 1860 (which relates to the detachment of maps from instruments of apportionment), shall be exercisable by the Commission either before or after the appointed day.

**Textual Amendments**

- F12** Words repealed by the Tithe Act 1951 (c. 62), **Sch. 2**

**Marginal Citations**

- M6** 1860 c. 93.

**41 Power to enter and inspect land.**

Any person authorised in writing by the Commission . . . <sup>F13</sup> for the purpose shall have a right, on production of his authority, to enter on and inspect at all reasonable times any land for the purpose of obtaining any information required by them for the discharge of their functions under this Act.

**Textual Amendments**

- F13** Words repealed by the Tithe Act 1951 (c. 62), **Sch. 2**

**42 Service and proof of documents.**

- (1) Any notice or other document required or authorised to be served under this Act may be served either—
  - (a) by delivering it to the person on whom it is to be served; or
  - (b) by leaving it at the usual or last known place of abode of that person; or
  - (c) by sending it in a prepaid registered letter addressed to that person at his usual or last known place of abode; or
  - (d) in the case of an incorporated company or body, by delivering it to the secretary or clerk of the company or body at its registered or principal office or sending it in a prepaid registered letter addressed to the secretary or clerk of the company or body at that office.
- (2) . . . . . <sup>F14</sup>

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**Textual Amendments**

**F14** Ss. 12(2)–(6), 18–20, 39(4), 42(2), 43, 45 repealed by [Tithe Act 1951 \(c. 62\)](#), [Sch. 2](#)

**F15** **43** .....

**Textual Amendments**

**F15** Ss. 12(2)–(6), 18–20, 39(4), 42(2), 43, 45 repealed by [Tithe Act 1951 \(c. 62\)](#), [Sch. 2](#)

**44 Treasury authorisation.**

A consent, approval or direction, required to be given by the Treasury for the purposes of this Act may be given either generally for any class of case or for any particular transaction.

**F16** **45** .....

**Textual Amendments**

**F16** Ss. 12(2)–(6), 18–20, 39(4), 42(2), 43, 45 repealed by [Tithe Act 1951 \(c. 62\)](#), [Sch. 2](#)

**F17** **46** .....

**Textual Amendments**

**F17** S. 46 repealed by [Statute Law Revision Act 1964 \(c. 79\)](#)

**47 Interpretation.**

(1) In this Act, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say:—

.....  
**F18**  
.....  
**F19**  
.....

“benefice” includes all rectories with cure of souls, vicarages, perpetual curacies, endowed public chapels and parochial chapelries, and chapelries or districts belonging or reputed to belong or annexed or reputed to be annexed to any church or chapel, and districts formed for ecclesiastical purposes by virtue of statutory authority, and includes benefices in the patronage of the Crown or of the Duchy of Cornwall;

“contingent rentcharge” means tithe rentcharge issuing out of lands exempted by virtue of section seventy-one of the <sup>M7</sup>Tithe Act, 1836, from the payment thereof whilst in the occupation of the owner of the lands or otherwise subject to special incidents;

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“district” means the parish or other district treated as a separate district for the commutation of tithes under the Tithe Act, 1836;

“ecclesiastical corporation” has the meaning assigned to it by the <sup>M8</sup>Episcopal and Capitular Estates Act, 1851;

...  
F20

“extraordinary tithe rentcharge” means a rentcharge payable under the <sup>M9</sup>Extraordinary Tithes Acts, 1886 <sup>M10</sup> and 1897;

.....  
F21

“instrument of apportionment” means an instrument of apportionment made and confirmed, or an instrument of altered apportionment made, under the Tithe Acts, and includes a certificate of capital value sealed under the Extraordinary Tithes Acts, 1886 and 1897, and a map annexed to any such instrument or certificate or detached therefrom under section twenty-six of the Tithe Act, 1860;

.....  
F20

“prescribed” means prescribed by rules made by the Commission . . . <sup>F22</sup>;

...  
F23

“re-apportioned rentcharge” means a tithe rentcharge which has been re-apportioned by the authority for the time being exercising jurisdiction in that behalf under the Tithe Acts, or which has, before the first day of April, nineteen hundred and thirty-three, been re-apportioned, as between lands identified by numbers in an instrument of apportionment, by the owners of the rentcharge and of the lands and has been recovered on the basis of such re-apportionment;

“stock” means redemption stock;

“Tithe Acts” means the Tithe Acts, 1836 to 1925;

“tithe rentcharge” means tithe rentcharge issuing out of lands and payable in pursuance of the Tithe Acts, and includes a rentcharge into which a corn rent was converted under those Acts, and also (except in such portions of this Act as do not have effect in relation to extraordinary tithe rentcharge) extraordinary tithe rentcharge, but does not include a rentcharge payable under the <sup>M11</sup>Tithe Act, 1860, in respect of the tithes on any gated or stinted pasture, nor a sum or rate payable for each head of cattle or stock turned on land subject to common rights or held or enjoyed in common.

- (2) In this Act, unless the context otherwise requires, in relation to a re-apportioned rentcharge, references to a tithe rentcharge shall be construed as references to each of the rentcharges resulting from the re-apportionment, and references to the land out of which a tithe rentcharge issued shall be construed as references to the lands respectively on which those rentcharges were reappportioned.
- (3) References in this Act to the amount of a tithe rentcharge shall be construed as references to the apportioned or par amount thereof.
- (4) In calculating for the purposes of this Act the amount . . . <sup>F24</sup> or of any sum payable on account of tithe rentcharge, fractions of a penny less than a halfpenny shall be disregarded, and fractions of a penny amounting to a halfpenny or more shall be treated as a whole penny.

#### Textual Amendments

**F18** Definitions repealed by [Finance Act 1977 \(c. 36, SIF 98:5\)](#), s. 59(5), [Sch. 9 Pt. V](#)



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- F19** Definitions repealed by [Tithe Act 1951 \(c. 62\)](#), **Sch. 2**
- F20** Definition repealed by [Statute Law Revision Act 1953 \(2 & 3 Eliz. 2 c. 5\)](#)
- F21** Definition repealed by [Finance Act 1989 \(c. 26, SIF 63:2, 98:5, 99:3\)](#), s. 187(2), **Sch. 17 Pt. XIV**
- F22** Words repealed by the [Tithe Act 1951 \(c. 62\)](#), **Sch. 2**
- F23** Definition repealed by [Local Government Act 1958 \(c. 55\)](#), **Sch. 9 Pt. II**
- F24** Words repealed by [Finance Act 1977 \(c. 36, SIF 98:5\)](#), s. 59(5), **Sch. 9 Pt. V** and by [Finance Act 1989, \(c. 26, SIF 63:2, 98:5, 99:3\)](#), s. 187(2), **Sch. 17 Pt. XIV**

**Marginal Citations**

- M7** [1836 c. 71](#).
- M8** [1851 c. 104](#).
- M9** [1886 c. 54](#).
- M10** [1897 c. 23](#).
- M11** [1860 c. 93](#).

<sup>X1</sup>**48** †**Short title, construction, extent and repeal.**

(1) This Act may be cited as the Tithe Act, 1936, and shall be construed with the Tithe Acts, 1836 to 1925, and those Acts and this Act may be cited together as the Tithe Acts, 1836 to 1936.

(2) This Act shall extend to England and Wales only.

<sup>F25</sup>(3) .....

**Editorial Information**

- X1** A dagger appended to a marginal note means that it is no longer accurate

**Textual Amendments**

- F25** [S. 48\(3\)](#), **Sch. 9** repealed by [Statute Law Revision Act 1950 \(14 Geo. 6 c. 6\)](#)

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